

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

<b>In re:</b>	)	
	)	
<b>CIRCUIT CITY STORES, INC., et al.,</b>	)	<b>Chapter 11</b>
	)	
<b>Debtors.</b>	)	<b>Case No. 08-35653-KRH</b>
	)	
	)	<b>Jointly Administered</b>

**RESPONSE OF AMERICAN POWER CONVERSION CORP. TO  
DEBTORS' EIGHTH OMNIBUS OBJECTION TO CERTAIN LATE CLAIMS**

American Power Conversion Corp. ("APCC") hereby responds to the Debtors' Eighth Omnibus Objection to Certain Late Claims (the "Eighth Omnibus Objection") as follows:

1. APCC supplied goods to Circuit City Stores, Inc. ("Circuit City"), one of the Debtors, prior to the filing of the Chapter 11 petitions herein, and is owed \$730,205.24 for goods that it delivered to Circuit City prior to the filing of the Chapter 11 petitions for which Circuit City did not pay.

2. In order to comply with this Court's December 10, 2009 order establishing January 30, 2009 as the bar date for the filing of proofs of claim, on January 29, 2009 APCC prepared and caused to be forwarded to Kurtzman Carson Consultants, LLC, the claims, noticing and balloting agent for the Debtors, its proof of claim with appropriate attachments (the "Proof of Claim"). A copy of the Proof of Claim (without attachments) is attached hereto as Exhibit A.

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3. APCC forwarded the Proof of Claim to Kurtzman Carson by Federal Express Priority Overnight Service for delivery by 10:30 a.m. on January 30, 2009. See Exhibit B attached hereto.

4. Federal Express failed to deliver the Proof of Claim until the morning of Monday, February 2, 2009 at 9:02 a.m. See Exhibits B and C attached hereto.

5. On the night of January 29, 2009, the weather in Memphis, Tennessee, where Federal Express's sorting facility is located, was severe. According to a letter dated June 23, 2009 from a Customer Relations Department Representative of Federal Express, the severe winter weather caused the delay in delivery of the Proof of Claim. See Exhibits C and D attached hereto.

6. According to the Tennessee Weather Forum website, on the night of January 29-30, the weather in Memphis was freezing fog with temperatures near or slightly below freezing, with visibility dropping to a quarter mile in places. See Exhibit E attached hereto.

7. The "excusable neglect standard for filing proof of claim applies . . . to cases brought under Chapter 11." *Jones v. Arross*, 9 F.3d. 79 (10th Cir. 1993). See also Fed. R. Bankr. P. 9006(b)(1).

8. The "excusable neglect" standard permits the Court to accept the one-day late-filed Proof of Claim where the lateness was "caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond the party's control." *Pioneer Investment Services Co. v. Brunswick Assoc. L.P.*, 507 U.S. 380, 388, 123 L.Ed.2d 74, 85 (1993). The facts set forth above constitute "excusable neglect" within the meaning of Fed. R. Bankr. P. 9006(b)(1) as interpreted by the U.S. Supreme Court in *Pioneer Investment Services Co.*, *supra*.

WHEREFORE, APCC respectfully requests that the Court enter an order overruling the Eighth Omnibus Objection as to APCC and directing the Debtors and Kurtzman, Carson to treat APCC's Proof of Claim as timely filed; and for such other and further relief as the Court may deem proper and just under the circumstances.

Dated: June 26, 2009

AMERICAN POWER CONVERSION CORP.

By counsel

/s/ Augustus C. Epps, Jr.

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 26th day of June, 2009, I caused a copy of the foregoing to be served by electronic means on all parties in interest registered in the Court's ECF system.

/s/ Augustus C. Epps, Jr.

Augustus C. Epps, Jr.

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